IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 2654 of 2007(N)

PETITIONER:

K.K. RAJI, PROPRIETRESS,
ENKEYS RESTAURANT, PATHIRAPALLY,
ALAPPUZHA.

BY ADV. SRI.A.SUDHI VASUDEVAN

RESPONDENTS:
----

1. **STATE OF KERALA, REPRESENTED BY**
   ITS SECRETARY TAXES (G) DEPARTMENT
   THIRUVANANTHAPURAM.

2. **THE EXCISE COMMISSIONER,**
   COMMISSIONERATE OF EXCISE,
   THIRUVANANTHAPURAM.

3. **ASST.EXCISE COMMISSIONER,**
   ALAPPUZHA.

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.2654/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE APPLICATION DT.14.2.01 SUBMITTED BY THE PETITIONER BEFORE THE REGIONAL DIRECTOR, HRACC.

EXT.P2:- COPY OF THE JUDGMENT DT.16.11.01 OF THIS HONOURABLE COURT IN OP. 33035/01.

EXT.P3:- COPY OF THE LETTER DT.7.3.02 ISSUED BY THE ASSISTANT DIRECTOR, INDIA TOURISM, GOVERNMENT OF INDIA TO THE DIRECTOR, DEPARTMENT OF TOURISM GOVERNMENT OF KERALA, PARK VIEW, THIRUVANANTHAPURAM.

EXT.P4:- COPY OF THE LETTER DT.17.5.02 ISSUED BY THE MEMBER SECRETARY OF THE CLASSIFICATION COMMITTEE OF DEPARTMENT OF TOURISM, GOVERNMENT OF INDIA TO THE REGIONAL DIRECTOR, GOVERNMENT OF INDIA TOURIST OFFICE, 154, ANNA SALAI, CHENNAI.

EXT.P5:- COPY OF THE RESTAURANT APPROVAL ORDER DT.24.6.02 ISSUED BY THE REGIONAL DIRECTOR, DEPARTMENT OF TOURISM, GOVERNMENT OF INDIA TO THE PETITIONER.

EXT.P6:- COPY OF THE APPLICATION DT.19.7.01 SUBMITTED BY THE PETITIONER THROUGH THE 3RD RESPONDENT BEFORE THE 2ND RESPONDENT FOR FL-3 LICENCE FOR THE PETITIONER'S RESTAURANT BEARING THE ENDORSEMENT OF THE 3RD RESPONDENT

EXT.P7:- COPY OF THE JUDGMENT DT. 20.12.04 IN WP(C) 29597/03 OF THIS HONOURABLE COURT.

EXT.P8:- COPY OF THE REPRESENTATION DT.16.1.05 SUBMITTED BY THE PETITIONER TO THE REGIONAL DIRECTOR, HRACC.

EXT.P8(a):- COPY OF THE ACKNOWLEDGEMENT RELATING TO EXT.P.8.

EXT.P9:- COPY OF THE RESTAURANT APPROVED ORDER D.T.18.12.06 ISSUED WITH EFFECT FROM 15.5.01.

EXT.P10:- COPY OF THE PROCEEDINGS DT.26.11.05 OF THE DIRECTOR DEPARTMENT OF TOURISM, THIRUVANANTHAPURAM.

EXT.P10(a):- COPY OF THE CERTIFICATE OF APPROVAL DT.26.11.05 ISSUED BY GOVERNMENT OF KERALA TO THE PETITIONER'S RESTAURANT.

EXT.P11:- COPY OF THE REPRESENTATION DT.22.12.06 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXT.P12:- COPY OF THE LETTER DT..4.1.07 ISSUED BY 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT.P13:- COPY OF THE ORDER DT.17.12.03 ISSUED BY the 2ND RESPONDENT GRANTING FL3 LICENCE TO HOTEL KARTHIKA, ATTINGAL.

W.P.(C) NO. 2654/2007

EXT.P14:- COPY OF THE ORDER DT.7.1.06 PASSED BY THE GOVERNMENT ALOWING THE REQUEST FOR THE GRANT OF FL3 LICENCE TO THE APPLICANT.

EXT.P15:- COPY OF THE JUDGMENT DT.21.12.06 OF THIS HONOURABLE COURT IN COC NO.1553/06.

EXT.P16:- COPY OF THE PHOTOGRAPH OF THE APPROVED RESTAURANT.

EXT.P17:- COPY OF THE ORDER DT.27.1.07 ISSUED BY THE 1ST RESPONDENT.

EXT.P18:- COPY OF THE ORDER DT. 8.2.2007 PASSED BY THE 1ST RESPONDENT

/TRUE COPY/

tss

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.2654 OF 2007

Dated this the 1st day of March, 2007

JUDGMENT

The issue raised by the petitioner is that his application for FL 3 licence (Ext.P6) is entitled to be considered on the basis of the law prevailing on the date of application, going by the relevant judgments of this Court. Accordingly, it is directed that the application of the petitioner will be taken up and considered by the competent among the respondents in accordance with law and after affording the petitioner an opportunity of being heard, within a period of two weeks from the date of receipt of a copy of this judgment. The petitioner will be entitled to place such decisions of this Court which will be relevant for a decision in the matter. While disposing of the said application, the respondents will take note of the case of the petitioner that his application is entitled to be considered in terms of the law that prevails as on the date of the application, going by the judgments of this Court.

The writ petition is disposed of with the above directions.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.